

REMARKS

This response is submitted in reply to the Office Action dated August 23, 2007. Claims 1-5, 8-12, 14-17, 20-23, 35 and 37-41 currently stand rejected. Applicants respectfully traverse.

In light of the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present application.

Claim Rejections - 35 USC §102

Claims 1-5, 8, 9, 11, 12, 14-17, 20, 21, 35, 37, 40 and 41 currently stand rejected under 35 U.S.C. §102(e) as being anticipated by Alperovich (U.S. Patent No. 6,101,393). Applicants respectfully traverse.

Alperovich is directed to a method for selective acceptance of SMS messages in a cellular telephone network. As described in the abstract of Alperovich, the subscriber may determine selection criteria, and in the HLR, a list is then created based on these criteria, so that short messages will be either accepted or rejected based on the created list. The abstract of Alperovich further describes that a confirmation message is returned to the originating entity indicating delivery or the reason for failure.

Meanwhile, the claimed invention, as recited in independent claim 1, for example, is directed to deciding whether an originator of a message is allowed to receive a delivery report by referring to a list of originators of messages which are allowed to receive delivery reports and transmitting the delivery report to the originator of the message only in case the originator of the message is on the list of originators. Thus, according to the claimed invention, the receiving device has an opportunity to select whether delivery or failure reports may be sent to the message originator. However, as will be explained in greater detail below, Alperovich fails to teach or suggest the above recited feature, since Alperovich provides for delivery reports in all cases of a failure to deliver a message.

In this regard, the Office Action cites col. 4, lines 10-62 of Alperovich as disclosing several features of the claimed recitations. This section of Alperovich (and particularly lines 28-47) describes a screening mechanism in the HLR, by which it is determined whether an incoming short message should be accepted or rejected. According to lines 51-56, an acknowledgment is sent from MS (22), which receives the SMS, to the service center (SC). The SC buffers short

messages and forwards the buffered short messages to an SMS-GMSC (see col. 3, lines 36-43). Accordingly, the cited passage of Alperovich describes that short messages may be rejected on the basis of some criteria, but a delivery report is sent only to the SC, which is a network control element and not the originator of the short message itself.

Alperovich further describes the screening mechanism at col. 5, lines 22-50. In this regard, in reference to FIG. 5, the cited passage describes that originators of short messages, from which messages are not to be accepted, are stored in a list. Thus, when an originator of a message is on the list, SMS delivery is not permitted. Furthermore, Alperovich discloses that, when rejecting a short message, "an appropriate message may be generated and returned to the originating MS, e.g., rejection signal 180 (shown in Fig. 3)" at col. 5, lines 47-50. In other words, short messages may be accepted or rejected based on a list stored in the HLR, and at least in the case of a rejection, a corresponding message is sent to the originator in all cases. Accordingly, the passage cited in the Office Action fails to teach or suggest that the subscriber receiving a short message has the opportunity to select whether delivery or failure reports may be sent to the originator. Quite to the contrary, the cited passages of Alperovich disclose that delivery reports are sent in all cases of rejection, and that those originators on the list will be rejected. Thus, Alperovich fails to teach or suggest deciding whether an originator of a message is allowed to receive a delivery report by referring to a list of originators of messages which are allowed to receive delivery reports and transmitting the delivery report to the originator of the message only in case the originator of the message is on the list of originators as recited in independent claim 1.

In short, Alperovich discloses a list of originators for which delivery is not permitted and then messages from originators on the list are always not permitted and a message indicative of the failure is correspondingly always sent. There is no teaching or suggestion in Alperovich of a decision with regard to whether an originator of a message is allowed to receive a delivery report on the basis of a list of originators allowed to receive delivery reports. In fact, Alperovich fails to mention or even recognize the problem that a delivery report could be annoying to some subscribers and therefore should be avoided, when not desired. Moreover, Alperovich fails to teach or suggest that a delivery report may be sent selectively (i.e., based on the claimed deciding operation) and that the selection may be carried out based on a list of originators.

Independent claims 12, 35, 40 and 41 include similar subject matter to the underlined recitation above and are therefore patentable and non-obvious over Alperovich for the same reasons given above for independent claim 1. However, notably, independent claim 35 explicitly points out that the determination regarding whether a delivery report is to be sent is carried out in the terminal. Alperovich only describes that decisions regarding the delivery of the short message are made at the HLR. However, a determination for sending delivery reports at the HLR would not make sense and thus, Alperovich actually teaches away from the claimed invention.

Claims 2-5, 8, 9, 11, 14-17, 20, 21 and 37 depend either directly or indirectly from independent claims 1, 12 and 35, respectively, and therefore include all the recitations of their respective independent claims. Dependent claims 2-5, 8, 9, 11, 14-17, 20, 21 and 37 are therefore patentable for at least the same reasons given above for independent claims 1, 12 and 35.

Accordingly, Applicants respectfully submit that the rejections of claims 1-5, 8, 9, 11, 12, 14-17, 20, 21, 35, 37, 40 and 41 are overcome.

Claim Rejections - 35 USC §103

Claims 23 and 39 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Alperovich in view of Mukherjee et al. (U.S. Patent No. 6,289,223, hereinafter "Mukherjee"). Claims 10, 22 and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Alperovich in view of Gleason (U.S. Patent No. 5,966,663).

As stated above, Alperovich fails to teach or suggest deciding whether an originator of a message is allowed to receive a delivery report by referring to a list of originators of messages which are allowed to receive delivery reports and transmitting the delivery report to the originator of the message only in case the originator of the message is on the list of originators as generally set forth in independent claims 1, 12 and 35. Gleason and Mukherjee also fail to teach or suggest the aforementioned features of independent claims 1, 12 and 35 and are not cited as such. Moreover, Applicants respectfully note that Mukherjee is similar to Alperovich insofar as Mukherjee includes a database list that refers to originating authorization, but not delivery report transmission authorization (see FIG. 2, col. 4, lines 33-37 and col. 6, lines 5-30 of Mukherjee).

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Since the cited references each fail to teach or suggest the aforementioned features of independent claims 1, 12 and 35, any combination of the cited references also fails to teach or suggest the subject matter of independent claims 1, 12 and 35. Thus, the cited references, taken either individually or in combination, do not anticipate, or render independent claims 1, 12 and 35 obvious. Claims 10, 22, 23, 38 and 39 depend either directly or indirectly from a respective one of independent claims 1, 12 and 35, and as such, include all the recitations of their respective independent claims. Dependent claims 10, 22, 23, 38 and 39 are therefore patentably distinct from the cited references, individually or in combination, for at least the same reasons as given above for independent claims 1, 12 and 35.

Accordingly, for all the reasons stated above, Applicants respectfully submit that the rejections of claims 10, 22, 23, 38 and 39 under 35 U.S.C. §103(a) are overcome.

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CONCLUSION

In view of the remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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